



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/805,910

03/22/2004

Paul B. Darcy

MFCP.68792/2-1

2025

45809

7590

07/13/2006

SHOOK, HARDY & BACON L.L.P.
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER

LIM, KRISNA

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/805,910	Applicant(s) DARCY ET AL.	
	Examiner Krisna Lim	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-21 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 2153

1. Claims 6-21 are presented for examination, and claims 1-5 and 22-36 were canceled.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis et al. [U.S. Patent No. 6,125,064].

Davis et al. disclosed (e.g., see Figs. 1-2) the invention substantially as claimed. Taking claim 6 as an exemplary claim, the reference disclosed a computer network (e.g., see abstract, line 2), comprising:

- a) a receiver node (e.g., see 34 of col. 2, line 6);
- b) at least one sender node (e.g., 32 of Fig. 6 (line 4) coupled with the receiver node over the network (e.g., see Figs. 1 and 2);
- c) the at least one sender node (32) being configured to send reports (packets) to the receiver node at irregular intervals (time gap between receipt of the first data packet and the receipt of the second data packet) (e.g., see col. 6, lines 15-20)), wherein the reports include information regarding the time intervals at which the first sender node will send subsequent report to the receiver node.

4. As to claim 7, Davis et al. further disclosed the receiver node is configured to create an expectation window (window size or e.g., packet measuring) for receiving each report (packet) from the at least one sender node.

Art Unit: 2153

5. As to claim 8, Davis et al. further disclosed the expectation window (e.g., see col. 6, lines 28-33) open at a present time prior (e.g., time-out, col. 6, line, line 45) to the corresponding time interval.

6. As to claim 9, Davis et al. further disclosed the receiver node (34) is configured to send a query to the least one sender node if one of the report is not received while its expectation window remains open (58 of Fig. 2).

6. As to claim 10, Davis et al. further disclosed a second sender node configured to send reports (packets) to the receiver node at irregular intervals (interpacket gaps, col. 5, line 67), wherein the reports include information regarding the time intervals at which the second sender node will send subsequent reports to the receiver node.

7. Davis et al do not explicitly mention exactly those terms. For example, Davis et al does not mention the terms of: irregular intervals, an expectation window, a present time and reports as time gap between the receipt of the first data packet and the receipt of the second data packet, a window size or a packet measuring, a time out and packets respectively. It would have been obvious to one skill in the art at the time the invention was made to recognize that this is matter of call while in fact the functionality of irregular interval was in fact the time gap between two sending packets. And, the expectation window was in fact a window size or a packet measuring for time frame in order to send the packet. And, the reports were in fact the packets as claimed. Etc.

8. Claims 11-21 are similar in scope as of claims 6-10, and therefore claims 11-21 are rejected for the same reasons set forth above for claims 6-10.

9.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references are cited in the Form PTO-892 for the applicant's review.

A shortened statutory period for response to this action is set to expire 3 (three)

Art Unit: 2153

months and 0 (zero) days from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956. The examiner can normally be reached on Monday to Wednesday and Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

July 9, 2006



KRISNA LIM
PRIMARY EXAMINER